

Testimony before Joint Committee on Ways and Means

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Senator Timilty, Representative Cantwell, members of the Joint Committee, I very much appreciate the opportunity to appear before you today on behalf of the Judicial Branch. Let me begin by thanking you and your colleagues in the Legislature for your support of the Judiciary during the past few years. Your strong financial support has enabled the Judicial Branch to stabilize its operations and to implement reform and improvements throughout the court system.

Because you will hear from many witnesses today and because I want to leave time for your questions, I shall be brief in my remarks. I will first describe the impact on the Judicial Branch of the Governor's proposed H-2 Budget, and then I will provide you with some detail on the Supreme Judicial Court's budget. Details on the Appeals Court budget will be provided by Chief Justice Scott Kafker, and Chief Justice Paula Carey and Court Administrator Harry Spence will speak on the Trial Court budget.

The Justices and I are fully aware that the Commonwealth's economic climate, although slowly improving, continues to present fiscal challenges. Therefore, the maintenance budgets submitted by the Judicial Branch, in particular the Trial Court request of \$654.4M, represent the minimum funding needed to operate the court system both safely and efficiently in Fiscal Year 2017. The Trial Court maintenance budget request reflects a funding increase of slightly over 3.5% and supports a staff of 6,520. This increase is right in-line with the overall growth in the Governor's Budget released in late January and funds a workforce that is 12% smaller than it was in FY2008 when the nation's financial crisis began. The vast majority of the growth in the FY2017 budget simply covers salary related obligations for existing staff, such as wage increases required under collective bargaining agreements, and cost of living adjustments for union and management staff, the backfilling of critical vacancies in probation that we need if we are to reduce the overall rate of recidivism and drug addiction, and the backfilling of vacancies in court security that we need

to keep our courthouses safe.

In FY2015 and FY2016, with the assistance of the Legislature, additional funding was included in the Trial Court budget to create specialty courts that address the problems of drug use and mental health that we estimate afflict approximately eighty percent of criminal defendants, as well as problems arising from the post-traumatic stress disorder that afflicts too many of our returning veterans. This funding enables the Trial Court to work with the Department of Public Health, Department of Mental Health, and the Department of Veterans Services to provide treatment programs for individuals attempting to confront these challenges. We thank you for your support for these courts.

The Governor's Budget for the Judiciary recommends a 1% increase over the current FY2016 Budget. We very much appreciate the increase in funding provided in the Governor's Budget, including the additional funding for statewide expansion of the Housing Court. However, the Governor's Budget, although above the current year funding, remains \$15.8M below the maintenance budget requested by the Trial Court. The Governor's Budget would fund approximately 6,200 positions in the Trial Court for FY2017. This is 320 fewer positions than we include in the Trial Court Maintenance Budget Request. If the Governor's Budget were adopted, it would significantly diminish our ability to deliver the quality of justice that the residents of this Commonwealth deserve.

Over the past several fiscal years, the Trial Court has implemented a strategic plan, made operational reforms, reallocated existing resources (funding and staffing), introduced new technologies and expanded our use of data driven practices. These innovative changes have kept yearly budget growth to a modest level and are reflected in the Trial Court FY2017 Maintenance Budget Request.

As was the case last year, the Trial Court budget proposal also includes certain modules for specific initiatives that the Judiciary would like the Legislature to consider funding in FY2017. These budget modules are described in detail in the budget request. I will leave the detailed advocacy of the modules for Chief Justice Carey and Court Administrator Spence, but you should know that all of the modules have the support of the Justices of the Supreme Judicial Court. There is one module, however, that I have special knowledge about from my work as co-chair of the Access to Justice Commission: the module that will permit every resident of Massachusetts to have access to a Housing Court. As I stated earlier, the Governor has included additional funding for the expanded Housing Court in his H-2 Budget recommendation and I urge the Legislature to include this funding as well. Right now, nearly one-third of our residents have no access to a Housing Court, which means that they have no access to housing specialists who help resolve the majority of cases by mediation, no access to the Tenancy Preservation Program that attempts to spare those with disabilities from homelessness, no ability to transform condemned three-deckers into renovated apartments through receiverships, and no forum to enforce building and safety codes efficiently. We have proposed legislation that will give every resident of Massachusetts access to a Housing Court, and this module provides the funding we need to do that. It is neither fair nor sensible that residents of Boston and Boylston have access to a Housing Court, but residents of Brookline, Braintree, and Burlington do not.

Let me turn now to the specific request of the Supreme Judicial Court.

For Fiscal Year 2017, the Justices have requested \$9,123,156 in the Supreme Judicial Court administration account and \$1,629,456 for the Clerk of the Supreme Judicial Court for Suffolk County. These requests are modest. They merely provide base funding for court operations, cover cost of living increases, and maintain already lean staffing levels. When I speak of lean

staffing levels, I mean it; we have nearly seven percent fewer staff today than we had in 2001. As you are aware, this is a critical year of transition for the SJC: four justices will retire in FY2017, and we are in the process of backfilling two key management positions. The Governor's FY2017 H-2 Budget recommendation for the SJC is \$361,000 less than what we requested for maintenance. If the SJC were funded as proposed, it would likely require staff reductions at a time when, quite frankly, we need all hands on deck

There are a number of non-judicial and non-affiliate organizations that, for budgetary purposes, are included within the sequence of accounts associated with the Supreme Judicial Court. Keep in mind that the courts have no practical control over the budgets of these agencies, and we do not oversee their spending. Consequently, our practice has been merely to forward the budget requests of these agencies without formal recommendations, and we do so again this year. But I note that included in this budget proposal for FY2017 is a \$10 million increase for the Massachusetts Legal Assistance Corporation. In the fall of 2014, the Boston Bar Association Statewide Task Force to Expand Legal Aid in Massachusetts issued a report that established quite clearly that increased public funding for civil legal services to the poor is not only essential if we are to provide equal justice in our courts, but is also extremely cost-effective, saving the Commonwealth far more than it costs: \$1 dollar spent for legal aid in eviction and foreclosure cases saves \$2.69 in homelessness costs; \$1 dollar spent for representation of domestic violence victims saves \$1 in state medical costs; \$1 dollar spent to help our residents obtain the federal benefits to which they are entitled by law brings in \$5 in additional federal benefits to this Commonwealth. An investment in civil legal services to the poor is an investment any rational investor would make, and the savings such an investment would generate become even more important in these challenging fiscal times.

Conclusion

As I stated, I will leave the specifics of the Appeals Court and Trial Court budgets to Chief Justice Kafker, Chief Justice Carey, and Court Administrator Spence, respectively. I merely add that the Justices of the Supreme Judicial Court are in complete support of their budget requests.

I thank you, the Joint Committee Chairs, Senator Spilka and Representative Dempsey, Senator Timilty and Representative Cantwell, and all the members of the Joint Committee, for this opportunity to address the budgetary needs of the Judiciary, and to share the Justices' views on the Governor's budget recommendations contained in H-2. I would like to reiterate the continued commitment of the Justices and all court leaders to work cooperatively with you and the committee staff as you prepare a budget that both preserves the quality of justice and addresses the financial challenges facing the Commonwealth. I would be pleased to answer any questions you may have now, or, if you prefer, answer questions after you have heard from all the Judicial Branch leaders.